

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

THETHESIUS HOSEA MOSLEY,

Plaintiff,

v.

ZEPP,

Defendant.

Case No. 1:23-cv-00421-JLT-EPG (PC)

ORDER REGARDING SUBPOENA

(ECF No. 57).

Plaintiff Thethesius Hosea Mosley is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's deliberate indifference claim against Defendant Zepp.

Defendant filed a motion for summary judgment on June 20, 2024. (ECF No. 41). Plaintiff has yet to respond to the motion, despite multiple extensions, but the Court has extended his deadline to November 29, 2024, to file a response. (ECF No. 54). Primarily, the delay stems from Plaintiff's inability to access his legal materials. Recently, Defendant responded to the Court's request for information on this issue, stating that Plaintiff was housed in the Mental Health Crisis Bed (MHCB) at California State Prison, Los Angeles County and did not have access to any property because he was admitted to the MHCB. (ECF No. 53).

Following this update, Plaintiff filed a notice of change of address on October 21, 2024, listing Kern Valley State Prison as his current prison. (ECF No. 56). On October 25, 2024, Plaintiff filed a subpoena form and his own declaration. (ECF No. 577). Generally, Plaintiff states

1 that his legal property was confiscated in July and he remains unable to access it, which prevents  
2 him from responding to Defendant's motion for summary judgment. It appears that Plaintiff  
3 wants the Court to issue a subpoena duces tecum to compel prison officials to return his property  
4 to him.

5 The Court will order Defendant to file a response.

6 Accordingly, IT IS ORDERED as follows:

- 7 1. By no later than November 7, 2024, Defendant shall file a response to Plaintiff's filing,  
8 which response shall include any information that Defendant is able to ascertain about  
9 whether Plaintiff will be able to access his legal property given his transfer to Kern Valley  
10 State Prison.

11 IT IS SO ORDERED.

12 Dated: October 29, 2024

13 /s/ Eric P. Gray  
14 UNITED STATES MAGISTRATE JUDGE  
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